

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
WESTERN DIVISION

GARY HODGES

PETITIONER

V.

CIVIL ACTION NO. 5:23-cv-57-DCB-BWR

HERBERT YOUNG

RESPONDENT

ORDER ADOPTING REPORT AND RECOMMENDATION

THIS MATTER is before the Court on Magistrate Judge Rath's Report and Recommendation ("Report") [ECF No. 16] concerning Herbert Young ("Respondent")'s Motion to Dismiss [ECF No. 8], Supplement to Motion to Dismiss [ECF No. 12], and Second Supplement to Motion to Dismiss [ECF No. 15] the pro se Petition for Writ of Habeas Corpus ("Petition") [ECF No. 1] filed by Gary Hodges ("Petitioner"). The Report was entered on June 4, 2024, and objections to the Report were due by June 20, 2024. No party has filed any objections, and the time to do so has elapsed.

Petitioner, who was serving supervised release for 2020 drug convictions, was arrested twice in 2022 for being a convicted felon in possession of a firearm. [ECF No. 16] at 2. After the second violation, Petitioner was arrested, held without bond, and the State of Mississippi sought revocation of Petitioner's post-released supervision and imposition of his suspended sentence. Id. In his Petition filed on June 8, 2023, Petitioner sought release from his detention and dismissal of charges against him because of

"the length of time it has taken to decide if [Petitioner] can be indicted." [ECF No. 1] at 7. Petitioner was subsequently indicted on the 2022 charges, pleaded guilty to two counts in the indictment, and sentenced to three years on count one and ten years on count two under the Mississippi Department of Corrections. [ECF No. 15-2] at 1-2. Moreover, in March 2024, the state court found that Petitioner materially violated his terms and conditions of parole under his 2020 convictions and revoked his probation. [ECF No. 15-10] at 6; [ECF 15-12].

After considering Respondent's motion, the record, and relevant legal authority, Judge Rath entered this Report and recommends that Respondent's motion be granted and the Petition denied as moot because Petitioner was indicted and convicted after filing his Petition, thereby rendering his Petition moot. See Salgado v. Fed. Bureau of Prisons, 220 F. App'x 256, 257 (5th Cir. 2007).

Where no party has objected to a Magistrate Judge's Report and Recommendation, the Court need not conduct a de novo review of it. 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made."). Where there are no objections, the Court applies the "clearly erroneous, abuse of discretion and contrary to law"

standard of review to the Report. United States v. Wilson, 864 F.2d 1219, 1221 (5th Cir. 1989).

Having considered the Report, the Court agrees with Judge Rath's recommendation. Accordingly, the Report is ADOPTED. Respondent's Motion to Dismiss [ECF No. 8], Supplement to Motion to Dismiss [ECF No. 12], and Second Supplement to Motion to Dismiss [ECF No. 15] is GRANTED and the Petition is hereby DENIED AS MOOT.

A Final Judgment shall be entered of even date herewith pursuant to Rule 58 of the Federal Rules of Civil Procedure.

SO ORDERED, this 1st day of July, 2024.

/s/ David Bramlette  
DAVID C. BRAMLETTE III  
UNITED STATES DISTRICT JUDGE